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"while in harbors of the United States" (sec. 4530 R. S.); and even as to the latter, the statute provides that "the courts of the United States shall be open . . . . for [the Act's] enforcement." American law may not punish as crimes acts lawfully done in a foreign jurisdiction. *United States v. Freeman* (1915) 239 U. S. 117, 120; 36 Sup. Ct. 32. But that seems no reason for not enforcing the statute civilly in accordance with its language. Whether advances made in an American port to seamen on a British ship would be treated in an English court as non-deductable is very doubtful. *In re Missouri Steamship Co.* (C. A., 1888) 42 Ch. Div. 321 (Limitation of liability, though void by American law, the *lex loci contractus*, enforced in England). The decision of the minority in the principal cases, it is submitted, seems better in accord with the policy and is fully sustainable under the express language of the Act.

APPEALS—MOTION TO DISMISS—EFFECT OF CHANGE OF CIRCUMSTANCES MAKING EQUITABLE RELIEF ASKED IMPOSSIBLE.—In a suit by taxpayers to restrain a county and its officers from proceeding under a contract with a bridge company for the construction of a bridge and from making payments thereunder, on the ground that the contract had not been entered into in accordance with the statutory requirements, a temporary restraining order was denied. The bridge company was made a party to the suit. After a trial on the merits judgment was entered for the defendants. After an appeal had been taken the defendants moved to dismiss the appeal, offering affidavits which showed that, pending the proceedings in the lower court and on appeal, the bridge company had fully carried out its agreement and had received payment from the county in full. *Held*, that the appeal would not be dismissed. McCoy, J., *dissenting*. *Clarke v. Beadle Co.* (1918, S. D.) 169 N. W. 23.

The decision seems both sensible and legally sound. If the judgment should be reversed and the agreement held illegal, the taxpayers might perhaps, under the liberal procedure of South Dakota, be permitted under the general prayer for relief to obtain alternative relief by way of damages, or, if not, could bring a separate action for the same. *McMillan v. Barber Asphalt Paving Co.* (1912) 151 Wis. 48, 138 N. W. 94. Moreover, the decision of the lower court, since judgment was rendered after a trial on the merits, would, if unreversed, preclude any suit "at law" by the taxpayers for damages. *Young v. Farwell* (1901) 165 N. Y. 341, 59 N. E. 143. The result would be that the appellate court would never pass upon the question of the legality of the contract. In spite of all this other jurisdictions have on similar facts dismissed the appeal. *Barber Paving Co. v. Hamilton* (1914) 80 Wash. 51, 141 Pac. 199. In the principal case the dissenting judge argued that since the taxpayers could, after the denial of the restraining order, have prevented the bridge company from proceeding with the work by filing a *supersedeas* appeal bond, they ought not now to be able to recover damages from a contractor who had "in good faith" gone on and completed the contract and received payment therefor. This seems to overlook that when the statutory requirements have not been complied with the contractor, although he completes the work, is not entitled to payment, either under the contract or in quasi-contract for the reasonable value of the work and materials. *McDonald v. The Mayor, etc. of New York* (1876) 68 N. Y. 23. Note that the contractor in the principal case knew that the legality of the contract was questioned. Sound policy would seem to dictate that he be held to have acted at his peril if it turns out that the taxpayers' contentions are correct. Nor ought the fact that in the instant case the contractor had been paid to affect the result, for it is generally held that the rule that money

paid under mistake of law cannot be recovered does not preclude the recovery by public corporations of money illegally paid out by their disbursing officers. *County of Wagner v. Reynolds* (1901) 126 Mich. 231, 85 N. W. 574; Woodward, *Quasi-Contracts,* sec. 40; Ann. Cas. 1915 B, 811. Such an action may be brought by a taxpayer. *Kerr v. Regester* (1908) 42 Ind. App. 375, 85 N. E. 790. The desirability of a provision in our procedural law for declaratory judgments is emphasized by the principal case. Indeed, the opinion in the principal case follows in its general line of reasoning the principles underlying such judgments. For arguments in their favor see Professor Borchard's articles in (1918) 28 YALE LAW JOURNAL, 1, 105.

ASSIGNMENTS—PARTIAL ASSIGNMENT—CONVERSION BY ASSIGNOR WHO COLLECTS DEBT.—A written partial assignment of a money claim against a city was made by a corporation, acting through its president. The parties orally agreed, however, that the assignee was not to notify the debtor of the assignment, that the assignor should collect the whole, and that "as soon as the corporation received" the amount of the debt from the debtor "the amount so assigned would be paid" to the plaintiff. The president of the corporation collected the whole sum, receiving a warrant therefor payable to the order of the corporation. This warrant he deposited in the corporation's bank account, and then used the funds for corporation expenses. The corporation became bankrupt and the partial assignee then brought the present action for conversion against the president of the corporation. *Held,* that the plaintiff could not recover. Smith, J., *dissenting. Hinkle Iron Co. v. Kohn* (1918, N. Y. App. Div.) 171 N. Y. Supp. 537.

See COMMENTS, p. 395.

CONFLICT OF LAWS—EFFECT OF FOREIGN INJUNCTION ON PENDING SUIT.—In a *mandamus* proceeding in Minnesota it appeared that the relator was administratrix of a person killed in Nebraska under circumstances making the defendant railway company liable under the wrongful death statute of that state; that the administratrix began an action in Minnesota against the defendant to recover damages for the wrongful death, the defendant being subject to jurisdiction there; that after issue had been joined in the Minnesota action, but before trial, the defendant railway company obtained in Nebraska a temporary injunction restraining the administratrix from proceeding with the Minnesota suit; that the Minnesota court entered an order staying proceedings until final hearing on the Nebraska injunction. The administratrix now asked the Supreme Court of Minnesota for a peremptory writ of *mandamus* to compel the Minnesota court to proceed with the action. *Held,* that the relator was entitled to the writ of *mandamus,* although it did not appear that the Nebraska injunction had been dissolved. *State ex rel. Bossung v. District Court* (1918, Minn.) 168 N. W. 589.

In the absence of the injunction the right of the administratrix to enforce her claim in the Minnesota courts was clearly established by the decisions in that jurisdiction. *Herrick v. Minneapolis, etc. Co.* (1883) 31 Minn. 11, 16 N. W. 413. On the other hand, the power of the Nebraska court to issue the injunction could not be denied, as apparently the administratrix was not only personally served in Nebraska but was in addition a citizen of that state. It is elementary also, that the Nebraska injunction could not bind the Minnesota court. It might, however, furnish a reason why on grounds of policy or "courtesy" the